

ORIGINAL

Before the
COPYRIGHT ROYALTY TRIBUNAL
Washington, D.C.

NOV 6 1 1985

In the Matter of)
)
)

1984 JUKEBOX ROYALTY)
DISTRIBUTION PROCEEDINGS)
_____)

Docket No. 85-1

JUSTIFICATION OF CLAIM

In accordance with 37 C.F.R. § 305.4(a), the American Society of Composers, Authors and Publishers ("ASCAP"), Broadcast Music, Inc. ("BMI") and SESAC, Inc. hereby file their joint justification of claim to 1984 jukebox royalties. */

ASCAP, BMI and SESAC have made voluntary agreements for division of the 1984 jukebox royalties, pursuant to 16 U.S.C. § 116(c)(2), and are therefore submitting a joint claim for the total amount due all three organizations. We believe we are jointly entitled to 100% of the 1984 jukebox royalty fund.

ASCAP, BMI and SESAC are jointly entitled to such proportionate share of the 1984 jukebox royalty

*/ We note that the Copyright Royalty Tribunal has not yet determined whether a controversy exists, pursuant to 37 C.F.R. § 301.72(b). If no controversy exists, this justification is moot under 37 C.F.R. § 305.4(b).

fund based on the performance of copyrighted music by means of licensed jukeboxes in 1984. In the absence of a proper survey of jukebox performances in 1984, a host of analogous measures may be used. These include surveys of performances in other media, license fee revenues, analogous license fees, record sales as shown by various measures, and many other measures. Each such measure shows that all but the most negligible portion of performances is accounted for by works in the ASCAP, BMI and SESAC repertories.

In addition, we incorporate by reference the record before the Tribunal in the consolidated 1982 and 1983 Jukebox Royalty Distribution Proceedings (Docket Nos. 83-2 and 84-2-83JD). That record, too, shows that all but the most negligible portion of performances is accounted for by works in the ASCAP, BMI and SESAC repertories. We believe that there have been no significant changed circumstances from those years to 1984 which would compel any other result.

Finally, we note that our voluntary agreements have been made on a without-prejudice basis, in part because we could not agree on a common measure of entitlement. Thus, this justification cannot be taken as an endorsement by any signatory of any particular measure

cited above, nor should it be relied upon by any claimant
or the Tribunal in any other proceeding of any sort.

Respectfully submitted,

AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS

By Bernard Korman
Bernard Korman *by E.T.D.*
One Lincoln Plaza
New York, New York 10023

Of Counsel:

I. Fred Koenigsberg
Beverly A. Willett

BROADCAST MUSIC, INC.

By Charles T. Duncan
Charles T. Duncan
REID & PRIEST
1111 19th Street, N.W.
Washington, D.C. 20036

Of Counsel:

Edward W. Chapin
Michael W. Faber
Lisa Holland Powell

SESAC, INC.

By Nicholas Arcomano
Nicholas Arcomano *by E.T.D.*
10 Columbus Circle
New York, New York 10019

Dated: November 1, 1985